

PERFORMING NOTARIAL ACTS FOR CITIZENS OF THE RUSSIAN FEDERATION UNDER MARTIAL LAW CONDITIONS: CURRENT CHALLENGES

Anzhela Medynska,

Private Notary, Ternopil

ORCID: <https://orcid.org/0009-0005-2802-2652>

Email: medynska_anzhela@ukr.net

Abstract. Performing notarial acts for citizens of the Russian Federation under martial law conditions presents a myriad of current challenges. Martial law, often declared during times of emergency or conflict, significantly impacts the legal landscape and the ability to execute notarial acts.

One primary challenge is the restriction of movement and access to notaries. Under martial law, curfews, checkpoints, and limited transportation can hinder citizens' ability to physically reach notaries for document authentication. This poses a significant obstacle to individuals requiring urgent notarial services.

Moreover, the enforcement of martial law may lead to disruptions in the functioning of notarial offices. Notaries themselves may face restrictions on their operations, including limited working hours, reduced staff, or even temporary closures. This can result in delays in processing notarial acts and exacerbate the challenges faced by citizens seeking these services.

Additionally, the heightened security measures and surveillance under martial law can raise concerns about privacy and confidentiality during notarial acts. Citizens may be apprehensive about sharing sensitive information or documents, fearing potential scrutiny or misuse in a more controlled environment.

Furthermore, the uncertainty and instability associated with martial law can create legal ambiguities and complications in notarial procedures. Changes in regulations, emergency provisions, or the suspension of certain legal processes may affect the validity and enforceability of notarized documents, adding another layer of complexity to an already intricate system.

In conclusion, performing notarial acts for citizens of the Russian Federation under martial law conditions presents a host of challenges that impact access, efficiency, privacy, and legal certainty. Addressing these challenges requires careful consideration of the unique circumstances and the implementation of flexible measures to ensure the continued provision of essential notarial services during times of crisis.

Key words: *notarial acts, citizens of the Russian Federation, martial law, legal challenges, international law, Ukraine.*

1. Introduction.

In the current context of global instability and armed conflicts, which significantly impact the functioning of state institutions, including the notarial system, the study of notarial acts under martial law conditions has become particularly relevant. Notarial activity is an essential component of the legal system in any country, providing legal protection and ensuring the observance of the legitimate rights and interests of individuals and legal entities. Military conflicts, unpredictable political situations, and states of emergency greatly complicate the performance of notarial functions, creating new challenges for notaries and the legal system as a whole.

The changes introduced to legislation due to martial law, their impact on notarial practice, and the measures taken to ensure the continuity of notarial services are key aspects requiring detailed analysis. Examining these issues will contribute to improving the efficiency of notarial activity during crises and ensuring the legal security of citizens and businesses amid hostilities.

Based on the data provided and other sources, the issue of document issuance (extradition) remains highly relevant, especially under martial law conditions. Specific aspects of this topic have been explored in the works of V. Bobrychenko, I. Iliopol, R. Krakan, K. Krasnikov, E. Krystieva, O. Marchenko, V. Negin, O. Pysmennyi, K. Rezvorovych, D. Roman, O. Ruda, K. Spasov, O. Tymoshchuk, Yu. Fedorchuk, and other scholars. In the course of writing this article, Ukrainian legislative and regulatory acts, as well as international agreements, were utilized.

The purpose of this research article is to analyze

the performance of notarial acts for citizens of the Russian Federation under martial law conditions, taking into account contemporary challenges. The study aims to examine the legal regulation of notarial procedures under such conditions, identify potential issues and obstacles in the execution of notarial acts during military operations.

2. Research methodology.

The methodology for this research comprises several components designed to systematically explore the unique challenges and legal intricacies of performing notarial acts for citizens of the Russian Federation under martial law conditions. The approach involves a combination of doctrinal legal research, comparative analysis, and empirical investigation.

1. **Doctrinal Legal Research.** This method focuses on the analysis of legal norms, including domestic Ukrainian legislation, international law, and bilateral agreements between Ukraine and the Russian Federation. Key legislative acts such as the Law of Ukraine on Notariate, Martial Law Act, and international humanitarian law provisions are examined to understand the legal framework governing notarial acts during martial law. Judicial decisions and doctrinal writings will also be reviewed to interpret how the law is applied in practice.

2. **Comparative Legal Analysis.** A comparative approach will be employed to study how other jurisdictions address notarial services for citizens of adversary states under exceptional circumstances like martial law or state emergencies. The legal systems of countries that have experienced similar conflicts, such as Israel or South Korea, will provide insights into effective strategies and challenges. This analysis helps identify best practices and potential legal gaps in the Ukrainian context.

3. Empirical Research. This component involves qualitative data collection through interviews and surveys. Notaries, legal practitioners, and governmental officials will be interviewed to gain insights into practical challenges faced during the provision of notarial services to Russian citizens. Additionally, citizens' experiences will be documented to understand their perspectives on access to notarial services during martial law.

This mixed-methods approach ensures a comprehensive analysis of the topic, addressing both theoretical and practical dimensions of performing notarial acts for Russian citizens under martial law conditions.

3. Results.

The war initiated by Russia against our country continues, and every Ukrainian is doing their utmost to support the state. Notaries are no exception; they continue to provide notarial services. However, following the adoption of Cabinet of Ministers Resolution No. 164 "Certain Issues of Notarial Services Under Martial Law", the Order of the Ministry of Justice of Ukraine dated March 11, 2022, No. 1118/5 "On Approval of Amendments to Certain Regulatory Acts in the Field of Notarial Services", and further orders issued on April 1, 2022, No. 1307/5, and April 11, 2022, No. 1429/5, specific features and restrictions have been introduced into notarial activities [1].

The introduced changes to the notarial system have simplified access to notarial services for individuals and legal entities. The requirements for conducting notarial acts were revised, emphasizing the obligation to uphold legality and adhere to the principles of notarial activities. Due to the armed aggression of the Russian Federation, which complicated the supply of official document forms, notaries are now permitted to certify documents on standard paper, provided their own credentials are indicated, during martial law.

Additionally, specific subject-matter restrictions have been established. Subparagraphs 1 and 2 of paragraph 1 of the aforementioned resolution impose limitations on performing notarial acts for citizens of the Russian Federation. Notably, subparagraph 1 of paragraph 1 stipulates the suspension of certain notarial acts, but this applies only to incomplete notarial acts. Moreover, these acts are not suspended if the requesting party is a Russian citizen lawfully residing in Ukraine or a legal entity whose ultimate beneficial owner, member, or shareholder (holding at least 10% of the capital) is a Russian citizen lawfully residing in Ukraine.

The conditions under which foreigners are considered to reside legally in Ukraine are defined by Parts 1-3, 17, and 19 of Article 4 of the Law of Ukraine "On the Legal Status of Foreigners and Stateless Persons". These include:

Foreigners and stateless persons may immigrate to Ukraine for permanent residence under the Law of Ukraine "On Immigration."

Refugees or those granted asylum in Ukraine are considered permanent residents from the date of their recognition as refugees or the granting of asylum, confirmed by a refugee certificate.

Foreigners granted additional or temporary protection are considered legally residing temporarily in Ukraine for the duration of the circumstances warranting such protection, as confirmed by appropriate documentation.

Individuals whose Ukrainian citizenship has been terminated or annulled must leave Ukraine or apply for an immigration permit within 30 days. Those who fail to leave are subject to expulsion unless they apply for immigration within the stipulated period.

Foreigners under contract for military service in Ukraine are also considered legally residing for the duration of the contract, as evidenced by a military ID.

Until the enactment of a law regulating relations involving individuals connected to the aggressor state, notaries are required to refuse certain notarial acts (except for verifying signatures on applications for renouncing Russian citizenship or certifying the wills of prisoners of war) if requested by:

A citizen of the Russian Federation, unless lawfully residing in Ukraine.

A legal entity established under Russian law.

A legal entity where a Russian citizen legally residing in Ukraine holds 10% or more of the capital [3].

Notaries must also verify the application of sanctions as per Article 4 of the Law of Ukraine "On Sanctions" and, if such sanctions apply, refuse the requested notarial acts under Article 49 of the Law of Ukraine "On Notariate" [4].

When certifying the will of a prisoner of war, the notary must confirm the individual's status as defined by the Geneva Convention "Relative to the Treatment of Prisoners of War" of August 12, 1949. This convention applies in all cases of declared war or armed conflict, including occupation, even if unopposed militarily. Provisions concerning the treatment and rights of prisoners of war, including their right to make a will, are further detailed in the Ukrainian military law and international agreements [5].

Cabinet of Ministers Resolution No. 413 "On the Procedure for Holding Prisoners of War" allows the camp commander to certify wills, which are then transmitted to the protecting power via the National Information Bureau, an entity established for managing data on prisoners of war, the missing, and the deceased [6].

Currently, no information is available on whether Ukrainian prisoners of war in Russia are granted the same rights to create and certify wills. Denial of this right constitutes a violation of international humanitarian law.

4. Conclusions.

The government of our country has adopted several legislative acts and updated existing regulations to ensure the safety of citizens and their property. It is important to note that notaries have been provided with necessary clarifications, which contributed to the safety of their activities and the public. This demonstrates

the government's commitment to addressing the challenges posed by the conflict in Ukraine and ensuring the security of all participants in notarial processes.

Research has revealed that performing notarial acts for citizens of the Russian Federation during martial law involves several legal and practical challenges. Key issues include limited access to notarial services due to security restrictions, insufficient legal clarity on matters of interstate cooperation during the conflict, and specific requirements for documents and procedures.

Ukraine's legislation regulating notarial activities requires further improvement to account for the conditions of martial law and the unique circumstances arising during the conflict. Clear mechanisms and procedures must be developed to ensure the legal protection of foreign nationals, particularly Russian citizens, who find themselves on Ukrainian territory during hostilities.

On a practical level, it is essential to equip notaries with the necessary resources and guidelines for working in high-risk environments and to enable the provision of remote services. The development of electronic notaries and the implementation of modern technologies can significantly ease the process of performing notarial acts under extreme conditions.

International cooperation also plays a crucial role in protecting the rights of foreign nationals. Active collaboration with international organizations and partners is necessary to develop and implement joint legal mechanisms and standards.

In conclusion, addressing the challenges associated with notarial acts for Russian citizens under martial law requires a comprehensive approach. This includes enhancing the legislative framework, developing practical tools, and fostering active international cooperation.

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